
SECOND SUBSTITUTE HOUSE BILL 2295

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Quall, Talcott, Rockefeller and Anderson)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to charter schools; amending RCW 28A.150.010;
2 adding new sections to chapter 41.56 RCW; adding new sections to
3 chapter 41.59 RCW; adding a new section to chapter 41.32 RCW; adding a
4 new section to chapter 41.35 RCW; adding a new section to chapter 41.40
5 RCW; and adding a new chapter to Title 28A RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
8 authorize the establishment of public charter schools within the
9 general and uniform system of public schools for the primary purpose of
10 providing more high-quality learning environments to assist
11 educationally disadvantaged students and other students in meeting the
12 state's academic standards. The legislature intends for charter
13 schools to function as an integral element of the public school system
14 maintained at public expense, free from discrimination, and open to all
15 students in the state, and to be subject to the same or greater
16 academic standards and performance outcomes as other public schools.
17 The legislature intends to encourage school districts to consider using
18 the chartering process as an optional tool to achieve state and federal
19 academic accountability goals. The legislature finds that in addition

1 to providing more high-quality public school choices for families,
2 teachers, and students, public charter schools may be a tool to improve
3 schools in which significant numbers of students persistently fail to
4 meet state or federal standards. The legislature also intends to
5 authorize the use of the chartering process as a state intervention
6 strategy, consistent with the provisions of the federal no child left
7 behind act of 2001, to provide assistance to schools in which
8 significant numbers of students persistently fail to meet state and
9 federal standards. The legislature also intends to ensure
10 accountability of charter schools through the use of performance audits
11 and a comprehensive study of charter schools, and to use the
12 information generated to demonstrate how charter schools can contribute
13 to existing education reform efforts focused on raising student
14 academic achievement.

15 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

18 (1) "Alternate sponsor" means: (a) The board of directors of an
19 educational service district that has agreed to assume the rights and
20 responsibilities of an alternate sponsor and to implement and
21 administer a charter approved by the superintendent of public
22 instruction under section 7 of this act; or (b) the superintendent of
23 public instruction if the superintendent has approved a charter under
24 section 7 of this act.

25 (2) "Applicant" means a nonprofit corporation that has submitted an
26 application to a sponsor or has filed an appeal with the superintendent
27 of public instruction to obtain approval to operate a charter school.
28 The nonprofit corporation must be either a public benefit nonprofit
29 corporation as defined in RCW 24.03.490, or a nonprofit corporation as
30 defined in RCW 24.03.005 that has applied for tax-exempt status under
31 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.
32 501(c)(3)). The nonprofit corporation may not be a sectarian or
33 religious organization and must meet all of the requirements for a
34 public benefit nonprofit corporation before receiving any funding under
35 section 12 of this act.

36 (3) "Charter school board" means the board of directors appointed
37 or elected by the applicant to manage and operate the charter school.

1 (4) "Charter" means a five-year contract between an applicant and
2 a sponsor or an alternate sponsor. The charter establishes, in
3 accordance with this chapter, the terms and conditions for the
4 management, operation, and educational program of the charter school.

5 (5) "Charter school" means a public school managed by a charter
6 school board and operating according to the terms of a charter approved
7 under this chapter and includes a new charter school and a conversion
8 charter school.

9 (6) "Conversion charter school" means a charter school created by
10 converting an existing public school in its entirety to a charter
11 school under this chapter.

12 (7) "Educationally disadvantaged students" includes students with
13 limited English proficiency; students with special needs, including
14 students with disabilities; economically disadvantaged students,
15 including students who qualify for free and reduced priced meals;
16 students exercising choice options and seeking supplemental services
17 under the federal no child left behind act of 2001; and other students
18 who may be at risk of failing to meet state and federal academic
19 performance standards.

20 (8) "New charter school" means any charter school created under
21 this chapter that is not a conversion charter school.

22 (9) "Sponsor" means the board of directors of the school district
23 in which the proposed charter school will be located, if the board has
24 approved a charter or if the board has agreed to administer and
25 implement a charter approved and authorized by the superintendent of
26 public instruction under the appeal process in section 7 of this act.

27 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) To carry out
28 its duty to manage and operate the charter school, the charter school
29 board may:

30 (a) Hire, manage, and discharge any charter school employee in
31 accordance with the terms of this chapter and that school's charter;

32 (b) Enter into a contract with any school district, or any other
33 public or private entity, also empowered to enter into contracts, for
34 any and all real property, equipment, goods, supplies, and services,
35 including educational instructional services; however, this authority
36 does not permit assigning, delegating, or contracting out the

1 administration and management of a charter school to a for-profit
2 entity;

3 (c) Rent, lease, or own property, but may not acquire property by
4 eminent domain. All charters and charter school contracts with other
5 public and private entities must include provisions regarding the
6 disposition of the property if the charter school fails to open as
7 planned or closes, or the charter is revoked or not renewed;

8 (d) Issue secured and unsecured debt to manage cash flow, improve
9 operations, or finance the acquisition of real property or equipment.
10 The issuance is not a general, special, or moral obligation of the
11 state, the charter school sponsor, the school district in which the
12 charter school is located, or any other political subdivision or agency
13 of the state. Neither the full faith and credit nor the taxing power
14 of the state, the charter school sponsor, the school district in which
15 the charter school is located, or any other political subdivision or
16 agency of the state may be pledged for the payment of the debt;

17 (e) Accept and administer for the benefit of the charter school and
18 its students, gifts, grants, and donations from other governmental and
19 private entities, excluding sectarian or religious organizations.
20 Charter schools may not accept any gifts or donations the conditions of
21 which violate this chapter.

22 (2) A charter school may not charge tuition, levy taxes, or issue
23 tax-backed bonds, however it may charge fees for optional noncredit
24 extracurricular events.

25 (3) Neither a charter school sponsor nor an alternate sponsor is
26 liable for acts or omissions of a charter school or its charter school
27 board, including but not limited to acts or omissions related to the
28 application, the charter, the operation, the performance, and the
29 closure of the charter school.

30 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
31 school including one or more of grades kindergarten through twelve,
32 operated by a board of directors appointed or elected by a charter
33 school applicant, according to the terms of a renewable five-year
34 contract granted by a sponsor or an alternate sponsor. A charter
35 school may offer any program or course of study that another public
36 school may offer. A charter school must allow students who are

1 receiving home-based instruction under chapter 28A.200 RCW to
2 participate in its programs on a part-time basis.

3 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
4 school shall operate according to the terms of a charter approved by a
5 sponsor or by the superintendent of public instruction under this
6 chapter.

7 (2) Charter schools are exempt from all state statutes and rules
8 applicable to school districts and school district boards of directors,
9 including but not limited to rules regarding the expenditure of state
10 allocations as provided in section 12 of this act, except those
11 statutes and rules as provided for and made applicable to charter
12 schools in accordance with this chapter and in the school's approved
13 charter.

14 (3) A charter school's board of directors shall implement a quality
15 management system and conduct annual self-assessments.

16 (4) All approved charter schools shall:

17 (a) Comply with state and federal health, safety, parents' rights,
18 civil rights, and nondiscrimination laws, including, but not limited
19 to, the family educational rights and privacy act (20 U.S.C. 1232g),
20 chapter 28A.640 RCW (sexual equality), and Title IX of the education
21 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school
22 districts, and to the same extent as school districts;

23 (b) Participate in free and reduced priced meal programs to the
24 same extent as is required for other public schools;

25 (c) Participate in nationally normed standardized achievement tests
26 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the
27 elementary, middle school, and high school standards, requirements, and
28 assessment examinations as required in chapter 28A.655 RCW;

29 (d) Employ certificated instructional staff as required in RCW
30 28A.410.010, however charter schools may hire noncertificated
31 instructional staff of unusual competence and in exceptional cases as
32 specified in RCW 28A.150.260;

33 (e) Comply with the employee record check requirements in RCW
34 28A.400.303;

35 (f) Be subject to financial examinations and audits as determined
36 by the state auditor, including annual audits for legal and fiscal
37 compliance;

1 (g) Be subject to independent performance audits by a qualified
2 contractor selected jointly by the state auditor and the joint
3 legislative audit and review committee beginning at the conclusion of
4 the third year of the school's operation, and at least once every three
5 years thereafter; however, a charter school is not required to bear the
6 expense of the audits;

7 (h) Comply with the annual performance report under RCW
8 28A.655.110;

9 (i) Follow the performance improvement goals and requirements
10 adopted by the academic achievement and accountability commission by
11 rule under RCW 28A.655.030;

12 (j) Be subject to the accountability requirements of the federal no
13 child left behind act of 2001, including Title I requirements;

14 (k) Comply with and be subject to the requirements under the
15 individuals with disabilities education act, as amended in 1997;

16 (l) Comply with and be subject to the requirements under the
17 federal educational rights and privacy act;

18 (m) Report at least annually to the board of directors of the
19 school district in which the charter school is located, to the school's
20 alternate sponsor if the school is not sponsored by a school district,
21 and to parents of children enrolled at the charter school on progress
22 toward the student performance goals specified in the charter;

23 (n) Comply with the open public meetings act in chapter 42.30 RCW
24 and open public records requirements in RCW 42.17.250;

25 (o) Be subject to and comply with legislation enacted after the
26 effective date of this section governing the operation and management
27 of charter schools; and

28 (p) Conduct annual self assessments of its quality management
29 program.

30 (5) A member of a board of directors of a charter school is a board
31 member of a school district for the purposes of public disclosure
32 requirements and must comply with the reporting requirements in RCW
33 42.17.240.

34 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate
35 the primary purpose for which the legislature established charter
36 schools, a charter school must be willing to enroll educationally
37 disadvantaged students and may not limit admission on any basis other

1 than age group and grade level. Consistent with the legislative intent
2 of this chapter, a charter school shall conduct timely outreach and
3 marketing efforts to educationally disadvantaged students in the school
4 district in which the charter school will be located.

5 (2) A conversion charter school must be structured to provide
6 sufficient capacity to enroll all students who wish to remain enrolled
7 in the school after its conversion to a charter school, and may not
8 displace students enrolled before the chartering process. If, after
9 enrollment of these students, capacity is insufficient to enroll all
10 other students remaining who have submitted a timely application, the
11 charter school must give enrollment priority to siblings of students
12 who are currently enrolled in the school. Students selected to fill
13 any remaining spaces must be selected only through an equitable
14 selection process, such as a lottery.

15 (3) A new charter school must enroll all students who submit a
16 timely application if capacity is sufficient. If capacity is
17 insufficient to enroll all students who apply, students must be
18 selected to fill any remaining spaces only through an equitable
19 selection process, such as a lottery. Siblings of enrolled students
20 must be given priority in enrollment.

21 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.

22 (1) An applicant may apply to a sponsor or may appeal to the
23 superintendent of public instruction for approval to establish a
24 charter school under this section. An application may not be submitted
25 earlier than eighteen months before, nor later than four months before,
26 the proposed date of opening the school.

27 (2) The superintendent of public instruction shall establish
28 guidelines for the timely receipt and approval of applications to
29 facilitate the efficient implementation of this act. Guidelines
30 established under this subsection shall reflect efficient processes for
31 the expeditious and orderly start-up of charter schools in a timely
32 manner for the purpose of serving students.

33 (3) An application for a charter school must be submitted first to
34 the board of directors of the school district in which the proposed
35 charter school will be located, allowing for the board's consideration
36 of the application in accordance with subsections (4) and (5) of this

1 section, before an appeal may be filed with the superintendent of
2 public instruction. A copy of each application submitted to a sponsor
3 also must be provided to the superintendent of public instruction.

4 (4) The school district board of directors must decide, within
5 forty-five days of receipt of the application, whether to hold a public
6 hearing in the school district to take public comment on the
7 application and, if a hearing is to be held, must schedule it within
8 seventy-five days of receipt of the application. If the school board
9 intends to accept the application, one or more public hearings must be
10 held before granting a charter; however a school board is not required
11 to hold a public hearing before rejecting an application. The school
12 board must either accept or reject the application within one hundred
13 five days after receipt of the application. The one hundred five-day
14 deadline for accepting or rejecting the charter school application may
15 be extended for an additional thirty days if both parties agree in
16 writing.

17 (5) If the school board does not hold a public hearing or rejects
18 the application after holding one or more public hearings, the school
19 board must notify the applicant in writing of the reasons for that
20 decision. The applicant may submit a revised application for the
21 school board's reconsideration and the school board may provide
22 assistance to improve the application. If the school board rejects the
23 application after a revised application is submitted, the school board
24 must notify the applicant in writing of the reasons for the rejection.

25 (6) At the request of the applicant or the sponsor, the
26 superintendent of public instruction may review the charter application
27 and provide technical assistance.

28 (7) If a school district board does not approve an application to
29 start a new charter school, the applicant may file an appeal to the
30 superintendent of public instruction for further review of the
31 application.

32 (8) Upon receipt of a request for review, the superintendent must
33 attempt to mediate a resolution between the applicant and the school
34 district board, and may recommend to the applicant and school district
35 board revisions to the application.

36 (9) If the school district board does not accept the revisions and
37 does not approve the application, the superintendent must review the
38 application. The superintendent, after exercising due diligence and

1 good faith, must approve the application if the superintendent finds:
2 (a) The criteria in section 9 of this act have been met; (b) the
3 approval will be within the annual limits in section 16 (1) and (2) of
4 this act; and (c) the approval is consistent with the legislative
5 intent for which charter schools are authorized and is in the best
6 interests of the children of the proposed school. The superintendent
7 may permit the board of directors of an educational service district to
8 assume the rights and responsibilities of implementing and
9 administering a charter approved under this section, but if no such
10 board agrees to assume the role of alternate sponsor, the
11 superintendent of public instruction shall assume the rights and
12 responsibilities of implementing and administering the charter and
13 shall become the alternate sponsor.

14 (10) The superintendent must reject the application if the
15 superintendent finds: (a) The criteria in section 9 of this act have
16 not been met; (b) the approval will not be within the annual limits
17 established in section 16 (1) and (2) of this act; or (c) the approval
18 is inconsistent with the legislative intent for which charter schools
19 are authorized and is not in the best interests of the children of the
20 proposed school. If the superintendent rejects the application, the
21 superintendent must notify the applicant in writing of the reasons for
22 the rejection.

23 (11) Educational service districts and the superintendent of public
24 instruction are encouraged to assist schools and school districts in
25 which significant numbers of students persistently fail to meet state
26 standards with completing the chartering process. Assistance from an
27 educational service district or from the superintendent of public
28 instruction may include, but is not limited to, identifying potential
29 eligible applicants, and assisting with the charter application and
30 approval processes.

31 (12) Consistent with the corrective action provisions in the
32 federal no child left behind act of 2001, the superintendent of public
33 instruction may use the chartering process as an intervention strategy
34 to meet federal student achievement and accountability requirements.
35 The superintendent may require a local school district board of
36 directors to convert a public school to a charter public school or, if
37 the superintendent determines it would be more appropriate, may require

1 a local school district board of directors to consent to conversion of
2 the school by an educational service district board of directors or the
3 superintendent.

4 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter
5 school application is a proposed contract and must include:

6 (1) The identification and description of the nonprofit corporation
7 submitting the application, including the names, descriptions,
8 curriculum vitae, and qualifications of the individuals who will
9 operate the school, all of which are subject to verification and
10 review;

11 (2) The nonprofit corporation's articles of incorporation, bylaws,
12 and most recent financial statement and balance sheet;

13 (3) A mission statement for the proposed school, consistent with
14 the description of legislative intent in this chapter, including a
15 statement of whether the proposed charter school's primary purpose is
16 to serve educationally disadvantaged students;

17 (4) A description of the school's educational program, curriculum,
18 and instructional strategies, including but not limited to how the
19 charter school will assist its students, including educationally
20 disadvantaged students, in meeting the state's academic standards;

21 (5) A description of the school's admissions policy and marketing
22 program, and its deadlines for applications and admissions, including
23 its program for community outreach to families of educationally
24 disadvantaged students;

25 (6) A description of the school's student performance standards and
26 requirements that must meet or exceed those determined under chapter
27 28A.655 RCW, and be measured according to the assessment system
28 determined under chapter 28A.655 RCW;

29 (7) A description of the school's plan to evaluate student
30 performance and the procedures for taking corrective action if student
31 performance at the charter school falls below standards established in
32 its charter;

33 (8) A description of the financial plan for the school. The plan
34 shall include: (a) A proposed five-year budget of projected revenues
35 and expenditures; (b) a plan for starting the school; (c) a five-year
36 facilities plan; (d) evidence supporting student enrollment projections
37 of at least twenty students; and (e) a description of major contracts

1 planned for administration, management, equipment, and services,
2 including consulting services, leases, improvements, real property
3 purchases, and insurance;

4 (9) A description of the proposed financial management procedures
5 and administrative operations, which shall meet or exceed generally
6 accepted standards of management and public accounting;

7 (10) An assessment of the school's potential legal liability and a
8 description of the types and limits of insurance coverage the nonprofit
9 corporation plans to obtain. A liability insurance policy of at least
10 five million dollars is required;

11 (11) A description of the procedures to discipline, suspend, and
12 expel students;

13 (12) A description of procedures to assure the health and safety of
14 students, employees, and guests of the school and to comply with
15 applicable federal and state health and safety laws and regulations;

16 (13) A description of the school's program for parent involvement
17 in the charter school;

18 (14) Documentation sufficient to demonstrate that the charter
19 school will have the liquid assets available to operate the school on
20 an ongoing and sound financial basis;

21 (15) Supporting documentation for any additional requirements that
22 are appropriate and reasonably related to operating the charter school
23 that a sponsor or alternate sponsor may impose as a condition of
24 approving the charter; and

25 (16) A description of the quality management plan for the school,
26 including its specific components.

27 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor or alternate
28 sponsor may approve an application for a charter school, if in the
29 sponsor's or alternate sponsor's reasonable judgment, after exercising
30 due diligence and good faith, the sponsor or alternate sponsor finds:

31 (1) The applicant is an eligible public benefit nonprofit
32 corporation and the individuals it proposes to manage and operate the
33 school are qualified to operate a charter school and implement the
34 proposed educational program that is free from religious or sectarian
35 influence;

36 (2) The public benefit nonprofit corporation has been approved or

1 conditionally approved by the internal revenue service for tax exempt
2 status under section 501(c)(3) of the internal revenue code of 1986 (26
3 U.S.C. Sec. 501(c)(3));

4 (3) The mission statement is consistent with the description of
5 legislative intent and restrictions on charter school operations in
6 this chapter. The sponsor or alternate sponsor must make a finding of
7 whether or not the charter school's primary purpose is to serve
8 educationally disadvantaged students;

9 (4) The school's educational program, including its curriculum and
10 instructional strategies, is likely to assist its students, including
11 its educationally disadvantaged students, in meeting the state's
12 academic standards;

13 (5) The school's admissions policy and marketing program is
14 consistent with state and federal law, and includes community outreach
15 to families of educationally disadvantaged students;

16 (6) The school's proposed educational program includes student
17 academic performance standards and requirements that meet or exceed
18 those determined under chapter 28A.655 RCW and are measured according
19 to the assessment system determined under chapter 28A.655 RCW;

20 (7) The application includes a viable plan to evaluate pupil
21 performance and procedures to take appropriate corrective action if
22 pupil performance at the charter school falls below standards
23 established in its charter;

24 (8) The financial plan for the school is designed to reasonably
25 support the charter school's educational program based on a review of
26 the proposed five-year budget of projected revenues, expenditures, and
27 facilities;

28 (9) The school's financial and administrative operations, including
29 its audits, meet or exceed generally accepted standards of accounting
30 and management;

31 (10) The assessment of the school's potential legal liability, and
32 the types and limits of insurance coverage the school plans to obtain,
33 are adequate. A minimum liability insurance policy of five million
34 dollars is required;

35 (11) The procedures the school plans to follow to discipline,
36 suspend, and expel students are reasonable and comply with state and
37 federal law;

1 (12) The procedures the school plans to follow to assure the health
2 and safety of students, employees, and guests of the school comply with
3 applicable state and federal health and safety laws and regulations;

4 (13) The school has developed a program for parent involvement in
5 the charter school;

6 (14) The charter school will have the liquid assets available to
7 operate the school on an ongoing and sound financial basis;

8 (15) The applicant has met any additional requirements that are
9 appropriate and reasonably related to the operation of a charter school
10 that a sponsor or alternate sponsor imposed as a condition for approval
11 of the charter; and

12 (16) The quality management plan for the school is adequate.

13 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
14 charter application approved by a sponsor or an alternate sponsor with
15 any changes or additions, and signed by an authorized representative of
16 the applicant and the sponsor or alternate sponsor, constitutes a
17 charter. A charter to convert a public school must include provisions
18 for the disposition, including assignment or reassignment, of the
19 employees of the school before its conversion and after conversion.

20 (2) A charter may be amended during its term at the request of the
21 charter school board of directors and on the approval of the sponsor or
22 alternate sponsor.

23 (3) A charter may not prohibit and must provide for the application
24 of laws applicable to charter schools or to charter school boards of
25 directors enacted after the effective date of this section.

26 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
27 approved plan to establish a charter school is effective for five years
28 from the first day of operation. At the conclusion of the first three
29 years of operation, the charter school may apply to the original
30 sponsor or alternate sponsor for renewal. A request for renewal must
31 be submitted no later than six months before the expiration of the
32 charter.

33 (2) A charter school renewal application must include:

34 (a) A report on the progress of the charter school in achieving the
35 goals; student performance standards, including the student performance
36 standards adopted by rule by the academic achievement and

1 accountability commission in accordance with RCW 28A.655.030; the
2 number and percentage of educationally disadvantaged students served;
3 and other terms of the charter;

4 (b) A financial statement that discloses the costs of
5 administration, instruction, and other expenditure objects and
6 activities of the charter school; and

7 (c) All audit information from independent sources regarding the
8 charter school, if available, and all self assessments and
9 corresponding corrective action plans.

10 (3) The sponsor or alternate sponsor shall reject the application
11 for renewal if the academic progress of students in the charter school,
12 as measured by the standards and assessments in chapter 28A.655 RCW, is
13 inferior, for the most recent two consecutive years, to the average
14 progress of students in the district in which the charter school is
15 located when similar student populations are compared.

16 (4) The sponsor or alternate sponsor may reject the application for
17 renewal if any of the following occurred:

18 (a) The charter school materially violated its charter with the
19 sponsor or alternate sponsor;

20 (b) The students enrolled in the charter school failed to meet
21 student performance standards identified in the charter, including the
22 student performance standards adopted by rule by the academic
23 achievement and accountability commission in accordance with RCW
24 28A.655.030;

25 (c) The charter school failed to meet generally accepted standards
26 of fiscal management; or

27 (d) The charter school violated provisions in law that have not
28 been waived in accordance with this chapter.

29 (5) A sponsor or alternate sponsor shall give written notice of its
30 intent not to renew the charter school's request for renewal to the
31 charter school within three months of the request for renewal in order
32 to allow the charter school an opportunity to correct identified
33 deficiencies in its operation. At the request of the board of
34 directors of the charter school, the sponsor or alternate sponsor shall
35 review its decision for nonrenewal within forty-five days of receiving
36 a request for review and supporting documentation sufficient to
37 demonstrate that any deficiencies have been corrected.

1 (6)(a) The sponsor or alternate sponsor may revoke a previously
2 approved charter before the expiration of the term of the charter, and
3 before application for renewal, if any of the following occurred:

4 (i) The charter school materially violated its charter with the
5 sponsor or alternate sponsor;

6 (ii) The charter school failed to meet generally accepted standards
7 of fiscal management; or

8 (iii) The charter school violated provisions in law that have not
9 been waived in accordance with this chapter.

10 (b) Except in cases of emergency where the health and safety of
11 children are at risk, a charter may not be revoked unless the sponsor
12 or alternate sponsor first provides:

13 (i) Written notice to the charter school of the specific violations
14 alleged;

15 (ii) One or more public hearings in the school district in which
16 the charter school is located; and

17 (iii) A reasonable opportunity and a sufficient period of time for
18 the charter school to correct the identified deficiencies.

19 (c) If, after following the procedures in (b) of this subsection,
20 the sponsor or alternate sponsor determines that revoking the charter
21 is necessary to further the intent of this chapter, the sponsor or
22 alternate sponsor may revoke the charter. The sponsor or alternate
23 sponsor shall provide for an appeal process upon such a determination.

24 (d) If a sponsor or alternate sponsor revokes the charter, the
25 sponsor or alternate sponsor, upon a request by the charter school,
26 shall provide technical assistance to the charter school to complete
27 the plan required and carry out the tasks identified in subsection (7)
28 of this section.

29 (7) A charter school planning to close or anticipating revocation
30 or nonrenewal of its charter shall provide a plan setting forth a
31 timeline and the responsible parties for disposition of students and
32 student records and disposition of finances.

33 (a) Immediately following the decision to close a school, the
34 school must:

35 (i) Submit to the sponsor or alternate sponsor a list of parent
36 addresses and proof that the school has communicated the impending
37 closure of the school to all parents and staff;

1 (ii) Assign staff responsible for transition of student records and
2 for providing assistance to students and parents in transferring from
3 the charter school to the district public, private, or home school
4 chosen by the family;

5 (iii) Provide the names and contact information for staff
6 responsible for transfer of student records, as well as the projected
7 transition tasks and timelines to the sponsor or alternate sponsor, and
8 upon completion of student transition, provide a list of students and
9 a brief description of the disposition of their student records to the
10 sponsor or alternate sponsor.

11 (b) Before closing the charter school the charter school board of
12 directors shall:

13 (i) Identify a trustee who will, through the process of closing the
14 school and for a term of ten years after closing, assume responsibility
15 for school and student records, and notify the sponsor or alternate
16 sponsor of the name and contact information for the trustee;

17 (ii) Determine the amount of anticipated revenue due to the school
18 as well as anticipated liabilities, and provide a complete asset and
19 liability report to the sponsor or alternate sponsor;

20 (iii) Create a current and projected payroll and payroll benefits
21 commitment;

22 (iv) List each employee, job, and the funds necessary to complete
23 the educational calendar balance of the year, the transition of
24 students and records, and the administrative close-down tasks;

25 (v) Determine the total moneys required to complete contracts;

26 (vi) Schedule an audit and set aside funds to cover costs; and

27 (vii) Provide the sponsor or alternate sponsor with a plan to close
28 the school and to dispose of all property owned by the charter school.

29 NEW SECTION. **Sec. 12.** FUNDING. (1) The superintendent of public
30 instruction shall provide prompt and timely funding for a charter
31 school including regular apportionment, special education, categorical,
32 student achievement, and other nonbasic education moneys. Allocations
33 shall be based on the statewide average staff mix ratio of all
34 noncharter public schools from the prior school year and the school's
35 actual FTE enrollment, except that vocational education funding for
36 grades nine through twelve shall be provided based on eighteen and one-
37 half percent of the charter school's actual FTE enrollment for grades

1 nine through twelve. Enhanced staff ratio funding provided to school
2 districts through the omnibus appropriations act shall be allocated to
3 a charter school regardless of whether the school maintains the
4 enhanced staffing ratio. A charter school is not eligible for enhanced
5 small school assistance funding. Categorical funding shall be
6 allocated to a charter school based on the same funding criteria used
7 for noncharter public schools, except that the charter school is exempt
8 from rules and statutes regarding the expenditure of these funds. A
9 charter school is eligible to apply for state grants on the same basis
10 as a school district. Those allocations to a charter school that are
11 included in RCW 84.52.0531(3) (a) through (c) shall be included in the
12 levy base of the district in which the charter school is located.

13 (2) For charter schools sponsored by a school district:

14 (a) Conversion charter schools are eligible for local levy moneys
15 approved by the voters before the start-up date of the school as
16 determined by the sponsor, and the school district shall allocate levy
17 moneys to a conversion charter school.

18 (b) New charter schools are not eligible for local levy moneys
19 approved by the voters before the start-up date of the school as
20 determined by the sponsor, and the district shall not allocate those
21 levy moneys to a new school.

22 (c) For levies submitted to voters after the start-up date of a
23 charter school, the school shall be included in levy planning, budgets,
24 and funding distribution in the same manner as other district-sponsored
25 public schools.

26 (d) A conversion charter school is eligible for state matching
27 funds for common school construction if a sponsoring school district
28 determines it has received voter approval of local capital funds for
29 the project.

30 (e) A conversion charter school is entitled to the continued rent-
31 free use of its existing facility, regardless of whether the conversion
32 school is sponsored by the local school district or by an alternate
33 sponsor. The district remains responsible for major repairs and safety
34 upgrades that may be required for the continued use of the facility as
35 a public school. The charter school is responsible for routine
36 maintenance of the facility, including but not limited to, cleaning,
37 painting, gardening, and landscaping.

1 (3) No local levy money may be allocated to a charter school if the
2 charter school is sponsored by an alternate sponsor.

3 (4) Within available funds as the legislature may appropriate, new
4 charter schools operating for the primary purpose of serving
5 educationally disadvantaged students under section 16(2) of this act
6 that are not otherwise eligible for levy money shall receive state
7 funding in an amount not greater than the amount the school would have
8 received if eligible.

9 (5) Sponsors and alternate sponsors shall submit, by November 1st
10 of each year, to the office of the superintendent of public
11 instruction, annual year-end financial information, as prescribed by
12 the superintendent, for each charter school sponsored in the previous
13 school year.

14 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs to
15 oversee and administer the charter, a sponsor or an alternate sponsor
16 may retain up to three percent of state funding and local excess levy
17 funding, if applicable, allocated to the charter school. Except for
18 the administration fee in this section, no other offsets or deductions
19 are allowed, whether for central administration or other off-site
20 support services, from a charter school's per-pupil share of state
21 appropriations, local levies, or other funds, unless the charter school
22 has contracted with a school district to obtain specific additional
23 services.

24 NEW SECTION. **Sec. 14.** LEAVES OF ABSENCE. If a school district
25 employee makes a written request for an extended leave of absence to
26 work at a charter school, the school district shall grant the request.
27 The school district may require that the request for leave be made up
28 to ninety days before the employee would otherwise have to report for
29 duty. The leave shall be granted for any request for up to two years.
30 If the employee returns to the school district within the two-year
31 period, the employee shall be hired before the district hires anyone
32 else with fewer years of statewide service, with respect to any
33 position for which the returning employee is certificated or otherwise
34 qualified.

1 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to
2 funding, the Washington institute for public policy shall study the
3 implementation and effectiveness of this act. The institute shall
4 report to the legislature on the effectiveness of charter schools in
5 raising student achievement and the impact of charter schools. The
6 institute also shall examine and discuss whether and how charter
7 schools have enhanced education reform efforts and recommend whether
8 relaxing or eliminating certain regulatory requirements for other
9 public schools could result in improved school performance at those
10 schools. The institute shall recommend changes to this chapter
11 including improvements that could be made to the application and
12 approval process. A preliminary report of the study is due to the
13 legislature by March 1, 2007, and a final report is due September 1,
14 2008.

15 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1) A maximum
16 of forty-five new charter schools may be established statewide during
17 the six consecutive years in which new charter schools are authorized
18 to be created under this chapter.

19 (a) For purposes of this section, a year begins on July 1st and
20 ends on June 30th. In each of the three years beginning July 1, 2004,
21 and ending June 30, 2007, not more than five new charter schools may be
22 established. In each of the three years beginning July 1, 2007, and
23 ending June 30, 2010, not more than ten new charter schools may be
24 established.

25 (b) These annual allocations are cumulative so that if the maximum
26 number of allowable new charters is not reached in any given year the
27 maximums are increased accordingly for the successive years, but in no
28 case shall the total number exceed forty-five without further
29 legislative authorization.

30 (c) Applications for charter schools may be submitted on the
31 effective date of this section.

32 (d) The superintendent of public instruction shall maintain copies
33 of all approved charter applications. An applicant may obtain copies
34 of those applications from the office of the superintendent of public
35 instruction.

36 (2) Consistent with the legislative intent of this chapter, a
37 majority of the annual number of new charter schools that may be

1 established under subsection (1) of this section are reserved to
2 implement charter schools established for the primary purpose of
3 serving educationally disadvantaged students, and that are located in,
4 or accessible to students who live in, geographic areas in which a
5 large proportion of the students have difficulty meeting state academic
6 content and student achievement standards, or geographic areas,
7 including urban and rural areas, in which a large proportion or number
8 of public schools have been identified for improvement, corrective
9 action, or restructuring under the federal no child left behind act of
10 2001, as follows:

11 (a) For new schools allowed during the first year beginning July 1,
12 2004, a majority are reserved until the thirty-first day after the
13 effective date of this section; and

14 (b) For new schools allowed during the second through sixth years,
15 a majority are reserved until March 31st of each year.

16 (3) To ensure compliance with the annual limits for establishing
17 new charter schools, authorization from the superintendent of public
18 instruction must be obtained before implementing an approved charter
19 for a new school. Sponsors and alternate sponsors shall promptly
20 notify the superintendent of public instruction when a charter is
21 approved, and shall indicate whether the charter school's primary
22 purpose is to serve educationally disadvantaged students. Upon the
23 receipt of notice from a sponsor or alternate sponsor that a charter
24 has been approved, the superintendent shall authorize implementing the
25 approved charter establishing the school in compliance with the limits
26 on the maximum number of new charters allowed under subsection (1) of
27 this section and in compliance with the dates until which the majority
28 of new charters each year are reserved under subsection (2) of this
29 section. If the superintendent receives simultaneous notification of
30 approved charters that exceed the annual allowable limits in
31 subsections (1) and (2) of this section, the superintendent shall
32 select approved charters for authorization through a lottery process,
33 and shall assign implementation dates accordingly.

34 (4) If the number of charters reserved each year under subsection
35 (2) of this section is not reached by the thirty-first day after the
36 effective date of this section, or by March 31st of the second through
37 sixth years, the superintendent of public instruction shall notify the
38 sponsors or alternate sponsors of any other approved charters for which

1 authorization has not been granted under subsection (3) of this
2 section, and shall authorize implementing those charters within the
3 annual limits, regardless of whether those charters meet the
4 requirements of subsection (2) of this section.

5 (5) The superintendent of public instruction shall notify eligible
6 sponsors and eligible alternate sponsors when the maximum allowable
7 number of new charters has been reached each year. If the maximum
8 number is not reached by the thirty-first day after the effective date
9 of this section, or by March 31st of the second through sixth years,
10 the superintendent shall report on the number of charters approved.

11 (6) A school district board of directors may establish a conversion
12 charter school during the six consecutive years in which charter
13 schools are authorized under this chapter for any school, including an
14 alternative school, that has failed to make adequate yearly progress
15 for the most recent three consecutive years, or is eligible for school
16 improvement assistance. Determinations regarding adequate yearly
17 progress and eligibility for school improvement assistance must be made
18 by the superintendent of public instruction.

19 (7) A new charter school or a conversion charter school operating
20 according to the terms of its charter to the satisfaction of its
21 sponsor or alternate sponsor may continue to operate after June 30,
22 2010, under a charter renewed by its sponsor or alternate sponsor under
23 section 11 of this act.

24 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56 RCW
25 to read as follows:

26 In addition to the entities listed in RCW 41.56.020, this chapter
27 applies to new charter schools created under chapter 28A.-- RCW
28 (sections 1 through 16 and 25 of this act). Notwithstanding RCW
29 41.56.060 and 41.56.070, the bargaining units of classified employees
30 of a new charter school must be limited to the employees of the new
31 charter school and must be separate from other bargaining units in the
32 school district or educational service district for at least the first
33 five years of operation of the new charter school. After the five-year
34 period, the employees in a bargaining unit of a new charter school may
35 indicate by a majority vote that they desire to become members of a
36 bargaining unit in the school district in which the new charter school
37 is located.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.56 RCW
2 to read as follows:

3 At the time of creation of a conversion charter school under
4 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
5 employees of a conversion charter school remain in any existing
6 appropriate bargaining unit of employees of the school district in
7 which the conversion charter school is located. If an applicant for a
8 charter school or a charter school board requests one or more variances
9 from a collective bargaining agreement that applies to the relevant
10 school district bargaining unit to address needs that are specific to
11 the charter school and the employees of the charter school, the
12 following applies:

13 (1) At the request of either party, the public employer, in
14 consultation with the applicant or charter school board, and the
15 bargaining representative of the bargaining unit shall negotiate
16 concerning the issues raised in the variance request.

17 (2) If the parties are unable to conclude an agreement regarding
18 the variance request within twenty days of negotiations, either party
19 may declare an impasse and submit the dispute to the commission for
20 mediation. The commission shall appoint a mediator within two days of
21 the submission. Mediation under this subsection shall continue for up
22 to ten days unless the parties agree otherwise.

23 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.59 RCW
24 to read as follows:

25 In addition to school districts, this chapter applies to new
26 charter schools created under chapter 28A.-- RCW (sections 1 through 16
27 and 25 of this act). Notwithstanding RCW 41.59.070 and 41.59.080, the
28 bargaining units of educational employees of a new charter school must
29 be limited to the educational employees of the new charter school and
30 must be separate from the bargaining units in the school district or
31 educational service district for at least the first five years of
32 operation of the new charter school. After the five-year period, the
33 employees in a bargaining unit of a new charter school may indicate by
34 a majority vote that they desire to become members of a bargaining unit
35 in the school district in which the new charter school is located.

1 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.59 RCW
2 to read as follows:

3 At the time of creation of a conversion charter school under
4 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
5 employees of a conversion charter school remain in any existing
6 appropriate bargaining unit of employees of the school district in
7 which the conversion charter school is located. If an applicant for a
8 charter school or a charter school board requests one or more variances
9 from a collective bargaining agreement that applies to the relevant
10 school district bargaining unit to address needs that are specific to
11 the charter school and the employees of the charter school, the
12 following applies:

13 (1) At the request of either party, the employer, in consultation
14 with the applicant or charter school board, and the exclusive
15 bargaining representative of the bargaining unit shall negotiate
16 concerning the issues raised in the variance request.

17 (2) If the parties are unable to conclude an agreement regarding
18 the variance request within twenty days of negotiations, either party
19 may declare an impasse and submit the dispute to the commission for
20 mediation. The commission shall appoint a mediator within two days of
21 the submission. Mediation under this subsection shall continue for up
22 to ten days unless the parties agree otherwise.

23 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.32 RCW
24 to read as follows:

25 This section designates charter schools as employers and charter
26 school employees as members, and applies only if the department of
27 retirement systems receives determinations from the internal revenue
28 service and the United States department of labor that participation
29 does not jeopardize the status of these retirement systems as
30 governmental plans under the federal employees' retirement income
31 security act and the internal revenue code.

32 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.35 RCW
33 to read as follows:

34 This section designates charter schools as employers and charter
35 school employees as members, and applies only if the department of
36 retirement systems receives determinations from the internal revenue

1 service and the United States department of labor that participation
2 does not jeopardize the status of these retirement systems as
3 governmental plans under the federal employees' retirement income
4 security act and the internal revenue code.

5 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.40 RCW
6 to read as follows:

7 This section designates charter schools as employers and charter
8 school employees as members, and applies only if the department of
9 retirement systems receives determinations from the internal revenue
10 service and the United States department of labor that participation
11 does not jeopardize the status of these retirement systems as
12 governmental plans under the federal employees' retirement income
13 security act and the internal revenue code.

14 **Sec. 24.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
15 each amended to read as follows:

16 Public schools (~~shall~~) means the common schools as referred to in
17 Article IX of the state Constitution and those schools and institutions
18 of learning having a curriculum below the college or university level
19 as now or may be established by law and maintained at public expense,
20 including charter schools under chapter 28A.-- RCW (sections 1 through
21 16 and 25 of this act).

22 NEW SECTION. **Sec. 25.** CAPTIONS NOT LAW. Captions used in this
23 chapter are not any part of the law.

24 NEW SECTION. **Sec. 26.** Sections 1 through 16 and 25 of this act
25 constitute a new chapter in Title 28A RCW.

26 NEW SECTION. **Sec. 27.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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